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IMPROVING THE OPERATION OF THE HUMAN RIGHTS TREATY BODIES

Improving the effectiveness of the human rights treaty bodies

Report of the Secretary-General

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Introduction

1. In its resolution 38/117 of 3 December 1983, the General Assembly, noting the problems relating to the reporting obligations of States parties under various human rights instruments, requested the Secretary-General to consider inviting the chairpersons of the treaty bodies to address this matter. The first meeting of chairpersons took place in 1984 and, in accordance with the relevant General Assembly resolutions, subsequent meetings took place biannually from 1988 until 1994. In its resolution 49/178, the General Assembly in 1994 endorsed the recommendation of the chairpersons that their meetings henceforth be held annually. Accordingly, the sixth and seventh meetings of chairpersons took place in September 1995 and September 1996, respectively, the reports of which are contained in the annex to documents A/50/505 and A/51/482. The eighth meeting of chairpersons has been convened by the Secretary-General pursuant to the same resolution.

2. Problems relating to the reporting obligations of States parties under various human rights instruments continue to be a concern of the General Assembly, as reflected recently in resolutions 50/170 and 51/87. In its resolution 51/87, the General Assembly took note, at its fifty-first session, of the conclusions and recommendations contained in the report of the seventh meeting of chairpersons. Developments relating to the issues discussed at that meeting and the conclusions and recommendations contained in the report are described below.

I. PROMOTION OF THE PRINCIPAL INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

A. Final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system

3. At the fifty-third session of the Commission on Human Rights, the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system submitted his final report (E/CN.4/1997/74). Pursuant to Commission on Human Rights decision 1997/105, the Secretary-General has solicited the views of United Nations bodies, Governments, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert. The principal recommendations of the independent expert are contained in paragraphs 110 to 112 of his report.

B. Restructuring of the High Commissioner/Centre for Human Rights

4. In September 1996, the High Commissioner/Centre for Human Rights underwent the first phase of restructuring. The five existing branches were merged into three. In the interim, all work undertaken by the Centre was divided in units referred to as "work packages", one of which was assigned to examine ways to improve the work of the human rights treaty bodies.

5. That work package began its work by reviewing all of the requests and recommendations made by the treaty bodies in their annual reports and by the chairpersons in the report of their seventh meeting, which were directed, inter alia, at States parties, treaty bodies and the Secretariat.

C. Towards universal ratification

6. The year 1997 represents a milestone towards the achievement of universal ratification of the principal international human rights treaties. With the accession of the Cook Islands to the Convention on the Rights of the Child in June 1997, all 193 States or territories with the capacity to ratify international treaties are now a party to at least one of these treaties. The accession of the Cook Islands has also brought the level of adherence to the Convention on the Rights of the Child to near universality, with 191 States parties out of a possible 193.

7. The World Conference on Human Rights, held in Vienna in June 1993, strongly recommended that a concerted effort be made to encourage and facilitate the ratification of and accession or succession to international human rights treaties and protocols adopted within the framework of the United Nations system with the aim of universal acceptance (Vienna Declaration and Programme of Action, Part II, paras. 4 and 100). From the adoption of the Vienna Declaration and Programme of Action until 30 June 1997, 195 instruments of ratification or accession to the nine principal treaties have been received by the Secretary-General of the United Nations from 102 States. This represents an increase of 24 per cent in adherence to these treaties.

8. In follow-up to the Vienna Declaration and Programme of Action, a meeting was held in May 1996 in Addis Ababa. As a result, from 30 May until 30 June 1997, five of the participating States submitted their instruments of ratification or accession to nine treaties. A meeting for the Asian and Pacific region, originally scheduled for September 1996, will now take place from 1 to 4 September 1997 in Amman. As in Addis Ababa, representatives of non-ratifying States in the region will be invited to discuss the provisions of the treaties, identify obstacles to ratification and suggest possible ways of overcoming those obstacles. The chairpersons will be briefed on the two meetings.

9. In the context of the programme for action on the fiftieth anniversary of the Universal Declaration of Human Rights prepared by the High Commissioner/Centre for Human Rights, it may be noted that one of the principal goals of the fiftieth anniversary is the promotion of universal ratification of the international human rights instruments. Close cooperation is being pursued with the Inter-Parliamentary Union to encourage member parliaments to initiate action at the national level with respect to ratification and to seek, if necessary, technical cooperation from the High Commissioner/Centre for Human Rights.

10. The High Commissioner for Human Rights encourages ratification on an ongoing basis in the High Commissioner's dialogue with Governments. In the framework of the five-year review of the Vienna Declaration and Programme of Action, a letter will be sent to all Governments in September 1997 encouraging ratification of the treaties. The chairpersons may wish to formulate initiatives for achieving universal ratification, such as the adoption of a plan of action, in connection with the five-year review and the fiftieth anniversary of the Universal Declaration of Human Rights.

D. Plans of action for the treaty bodies

11. In November 1996, the High Commissioner's plan of action to strengthen the implementation of the Convention on the Rights of the Child was finalized and sent to States parties to the Convention. Contributions from States have enabled the High Commissioner/Centre for Human Rights to hire a substantive team to assist the Committee in the performance of its functions, including tasks of follow-up and technical assistance.

12. In December 1996, during the fifteenth session of the Committee on Economic, Social and Cultural Rights, a plan of action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights was adopted. The plan was revised during the Committee's sixteenth session. 1/ It envisages that a support team of two Professional staff will be recruited from voluntary contributions to assist the Committee.

E. Reservations

13. In 1994, the Human Rights Committee adopted General Comment 24 2/ on reservations. This General Comment has been the object of much discussion in academia and has elicited responses from various Governments. 3/

14. In 1996, the Committee on the Elimination of Discrimination against Women requested the secretariat to undertake a study on the reservations made to the Convention on the Elimination of All Forms of Discrimination against Women, focusing on what United Nations conferences have said about reservations to the Convention and comments made by women's human rights non-governmental organizations concerning reservations. It also requested a qualitative comparison of reservations to the Convention with reservations to those of other human rights treaties and an analysis of States parties' reservations that are contrary to the object and purpose of the Convention or which are otherwise incompatible with international treaty law. That study was issued in November 1996 and is available as document CEDAW/C/1997/4.

F. Computerization of treaty body information

15. Computerization of the work of the treaty bodies has continued at a rapid pace. Additional improvements and data entry in the treaty body database have been made with respect to information relating to all of the treaty bodies. Information is now available for all treaties regarding the status of ratifications, accessions and successions. Also available are the full texts of States parties' reports, information submitted by non-governmental organizations, lists of issues, and other key information. In addition, the Human Rights Website of the High Commissioner/Centre for Human Rights contains calendars of treaty body sessions and lists of States parties' reports to be considered. With the publication of the Website on 10 December 1996, to which the database is electronically linked, preparatory materials concerning the examination of States parties' reports by all treaty bodies are now available to Internet users worldwide.

16. Consultations are taking place with the Division for the Advancement of Women in New York with a view to establishing an electronic link with the secretariat of the Committee on the Elimination of Discrimination against

Women. Once that link is established, it is envisaged that the Division would maintain and update the information relating to this Committee on an ongoing basis, as is being done for the other treaty bodies by the secretariat in Geneva. This would permit timely sharing of information among all treaty bodies, which is expected to contribute favourably to the process of examination of States parties' reports and the conduct of ad hoc research projects.

G. Scheduling of meetings

17. In order to enhance awareness of the work of complementary treaty bodies, it may be appropriate to reschedule committee sessions so that some of their meetings overlap, for example, the Human Rights Committee with the Committee on Economic, Social and Cultural Rights; the Human Rights Committee with the Committee against Torture; and the Committee on the Rights of the Child with both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights.

II. UNITED NATIONS DECADE FOR HUMAN RIGHTS EDUCATION

18. At their seventh meeting, the chairpersons expressed support for the Plan of Action for the United Nations Decade for Human Rights Education. They recommended that treaty bodies, in their examination of States parties' reports, inquire about compliance by States parties with their extensive obligations regarding education and the provision of public information on human rights in general and concerning human rights instruments and the proceedings of the treaty bodies in particular. In the framework of the Decade, a preliminary report has been undertaken on the extent to which treaty bodies, in their examination of States parties' reports, make specific reference to the Decade and monitor implementation of the Plan of Action. That report is available in document HRI/MC/1997/MISC/3.

19. To promote implementation of human rights education at the national level, an expert meeting was held in January 1997 to revise some basic documents relating to the Decade, particularly the "Guidelines for national plans of action for human rights education", a compilation of provisions of international and regional instruments dealing with human rights education entitled "The right to human rights education" and a paper entitled "Human rights education programming" containing ideas and suggestions for the implementation of targeted programmes. These documents are available for consultation in final draft form.

III. THE REPORTING PROCESS

20. The chairpersons, in past meetings, and several treaty bodies in their annual reports have drawn attention to the problem of overdue reports. Some treaty bodies have taken steps to bring greater publicity to non-compliance by States with their reporting obligations by developing new lists of delinquent States as sessional documents or by giving prominence to existing lists in their annual reports. States are reminded of their overdue reports through notes verbales, sent separately by the treaty bodies at different intervals. In the absence of an overview of reports, Governments often cannot plan the preparation of reports in an efficient manner and the reminder system has

become increasingly time-consuming to maintain, as a direct result of the growing number of ratifications. Keeping abreast of the reporting status of States parties has thus posed a considerable problem to States parties and interested organizations and persons, as well as to the secretariat.

21. The computerization of the work of the treaty bodies in recent years has enabled the preparation of an overview of compliance by all States parties with their reporting obligations under all principal international human rights treaties (HRI/MC/1997/MISC/2). If approved by the chairpersons and their respective Committees, the draft document could provide the basis for informing all States parties of the status of their reporting in an integrated and structured manner. It could be made available to all interested parties, thus enhancing general awareness of the compliance or non-compliance of States.

22. Some treaty bodies are confronted with another problem, namely, severe backlogs of submitted reports awaiting examination. For instance, for several treaty bodies, a report submitted in 1997 may well be examined only in the year 2000, when much of its data would be obsolete.

23. Addressing both problems in the reporting process, the General Assembly. in its resolution 51/87, requested the Secretary-General to prepare a detailed analytical study comparing the provisions of the principal treaties with a view to identifying duplication of reporting required under these instruments. Pursuant to that resolution, a preliminary analysis of the international human rights treaty system, with a view to offering guidance on the cross-referencing of treaty provisions as a means of reducing the burden of reporting has been undertaken by the secretariat. The chairpersons are invited to review the analysis and the recommendations contained therein.

IV. EXTERNAL RELATIONS OF TREATY BODIES

A. Role of non-governmental organizations

24. The chairpersons, at the seventh and previous meetings, have underscored the importance of the role of non-governmental organizations with respect to the provision of information on the implementation of the treaties in States parties and their subsequent involvement in the implementation of the recommendations of the treaty bodies. At the eighth meeting of chairpersons, non-governmental organizations will have an opportunity to present their views under agenda items 7 and 8. Currently, non-governmental organization that work closely with the treaty bodies receive information regularly on the calendar of sessions, States parties' reports to be considered at each session, lists of issues and other relevant information. In addition, the link established between the treaty body database and the Human Rights Website now makes it possible for all Internet users, including non-governmental organizations, to access this information electronically well in advance of each session, and the concluding observations shortly after each session.

25. In its decision 15/II, adopted at its fifteenth session in January 1996, the Committee on the Elimination of Discrimination against Women requested the secretariat to review the practice of other human rights treaty bodies in receiving information from non-governmental organizations and the participation of the latter in the meetings of those bodies. The analysis is

contained in the report of the secretariat on ways and means of expediting the work of the Committee, submitted to the sixteenth session of the Committee (CEDAW/C/1997/5).

B. Cooperation with regional human rights mechanisms

26. In March 1996, the Committee on the Elimination of Racial Discrimination designated "liaison members" to maintain contact with regional organizations, United Nations non-conventional human rights bodies and specialized agencies, as noted in the report of the Secretary-General to the chairpersons at their seventh meeting (HRI/MC/1996/2). With regard to the regional organizations, liaison members sent letters of introduction proposing closer cooperation with them. A number of positive responses were received but no further developments have taken place.

C. Cooperation with United Nations non-conventional human rights bodies and mechanisms

27. Members of the Committee on the Elimination of Racial Discrimination and the Sub-Commission on Prevention of Discrimination and Protection of Minorities are preparing a joint working paper on article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination.

28. At their seventh meeting, the chairpersons suggested that special rapporteurs of the Commission on Human Rights and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and other experts whose work is of direct relevance to the activities of a particular treaty body could schedule their visits to the United Nations in connection with the meeting of that treaty body to facilitate direct cooperation on issues of mutual concern. Another possibility would be to schedule future meetings of chairpersons and meetings of special rapporteurs so as to coincide. That possibility will be discussed at the next meeting of the special rapporteurs in May. The chairpersons may wish to consider rescheduling their annual meetings to take place in May.

29. Among the matters that might be discussed at joint meetings could be the possibility of special rapporteurs attending, when appropriate, sessions of relevant treaty bodies and the possibility of special rapporteurs requesting member(s) of treaty bodies to accompany them as experts on missions.

D. Cooperation with United Nations bodies and specialized agencies

30. The treaty bodies have continued their cooperative exchanges with partner agencies and organizations in the United Nations system. In particular, specialized agencies that have mandates closely related to specific treaty bodies have continued to participate in the pre-sessional or plenary meetings of treaty bodies, to submit oral or written information complementing the information contained in States parties' reports and to participate in or host external meetings on themes relevant to the treaties in question.

31. At present, specialized agencies and United Nations organs are regularly invited to attend treaty body sessions, as indicated below.

Specialized agencies and United Nations bodies regularly invited to treaty body sessions

	Division for the Advancement of Women	Crime Prevention and Criminal Justice Division	UNICEF	UNDP	UNFPA	UNHCR	ILO	FAO	UNESCO	WHO	UNAIDS	World Bank	IMF
HCR			(X)			X	(X)	(X)	(X)	(X)	X		
CESR				(X)		X	X	(X)	(X)	X	X	(X)	(X)
CAT						X	(X)		(X)	(X)	(X)		
CERD							X		(X)				
CRC	(X)	(X)	X	(X)	(X)	X	X	(X)	X	X	X	(X)	(X)
Meeting of chair-persons	X		X	(X)	X	X	X		(X)	X		(X)	(X)

X indicates the specialized agencies and United Nations bodies invited to attend sessions of the relevant treaty body.

(X) indicates the specialized agencies and United Nations bodies invited but not regularly attending meetings of the relevant treaty body.

32. During the sixth meeting of chairpersons, representatives of specialized agencies made clear that, although their organizations attached importance to human rights issues, the human rights or external relations officers dealing with the treaty bodies did not have the capacity to attend all meetings of the treaty bodies, which would require them to be in meetings 34 weeks per year or, if CEDAW were included, 40 weeks. In view of the resource constraints facing the entire United Nations system, representatives of some specialized agencies indicated that, as the agencies also had to follow priorities, they would not be able to participate actively in or provide high-level input to all meetings of the treaty bodies.

33. As a result, responses to invitations to attend treaty body sessions or to submit information relevant to States whose reports were under consideration have generally been limited to those agencies whose area of competence is closely related to that of the treaty body concerned. One may note, for example, the particularly strong cooperation developed between the Committee on the Rights of the Child and UNICEF and between the Committee on Economic, Social and Cultural Rights and ILO. It is also noted that these two treaty bodies regularly hold days of general discussion on specific topics relevant to their work and invite the participation of the specialized agencies. The agencies are thus granted an opportunity to exchange views with the treaty bodies even when they are unable to attend full sessions.

34. Specialized agencies have been requested to identify and convey to the chairpersons at their present meeting the elements of a cooperative relationship that would be both effective and sustainable.

35. Strengthened cooperation with partners in the United Nations system is a high priority for the High Commissioner/Centre for Human Rights with respect not only to the treaty bodies but all human rights activities. In this regard, the High Commissioner/Centre for Human Rights joined, in March 1997, the Coordinating Committee on Programme and Operational Questions (CCPOQ) of the inter-agency Administrative Committee on Coordination (ACC). As CCPOQ is the coordinating mechanism which oversees the Resident Coordinator system, the High Commissioner/Centre for Human Rights has become actively involved in the development by CCPOQ of training programmes for Resident Coordinators, in order to ensure that a component on human rights is included in their training.

36. While strengthened cooperation is being sought at the broader level through ACC and CCPOQ, the High Commissioner/Centre for Human Rights is also seeking to improve cooperation with its key partners on a bilateral basis. A memorandum of understanding was concluded with UNESCO in October 1995 and with FAO in May 1997, in which these two agencies agreed, inter alia, to promote their participation in relevant meetings of the treaty bodies. In addition, during the recent restructuring of the High Commissioner/Centre for Human Rights and UNDP, among the new priorities identified in each of these institutions is the need to strengthen cooperation with the other. A draft memorandum of understanding has been exchanged between the two institutions and is being finalized for signature by the respective heads of office.

37. With respect to the World Bank, the High Commissioner/Centre for Human Rights has presented proposals for joint projects and is engaged in a dialogue concerning the selection of projects for the immediate future.

V. GENDER PERSPECTIVES IN THE WORK OF THE TREATY BODIES

38. The equal enjoyment by men and women of all human rights is an overarching principle of the six principal human rights treaties, which the chairpersons may wish to address with a view to harmonizing their approach on this matter. In this context, the chairpersons may wish to consider inviting an interested organization to convene a round-table or expert meeting to assist with the drafting of general comments on gender equality.

VI. PREVENTION OF HUMAN RIGHTS VIOLATIONS, INCLUDING EARLY WARNING AND URGENT PROCEDURES

39. The General Assembly in resolution 50/170 and the Commission on Human Rights in resolution 1996/22 welcomed all appropriate measures the human rights treaty bodies might take, within their mandates, in response to situations of massive human rights violations, including bringing those violations to the attention of the High Commissioner for Human Rights, as well as the Secretary-General and the bodies of the United Nations competent in the field of human rights. In those resolutions, the General Assembly and the Commission on Human Rights requested the High Commissioner, acting within his mandate, to coordinate and consult throughout the United Nations system in that regard.

40. It may be recalled that since its forty-fourth session in March 1994, the Committee on the Elimination of Racial Discrimination has incorporated in its agenda an item entitled "Early warning and urgent procedures". Under this agenda item, the Committee may review human rights situations in States parties that give cause for special concern. As of its fiftieth session in March 1997, the Committee had considered under this agenda item the human rights situation in 13 States parties.

41. In the light of events indicating that the enjoyment of the rights protected under the International Covenant on Civil and Political Rights has been seriously affected in certain States parties, the Human Rights Committee has, since its forty-first session in April 1991, requested such States to submit urgently special reports on the situation, generally within three months.

VII. ASSISTANCE TO STATES IN IMPLEMENTING TREATY BODY RECOMMENDATIONS

42. Only very few States have adopted enabling legislation to facilitate the incorporation of the decisions and recommendations adopted by treaty bodies in the national legal order. The chairpersons may therefore wish to request that draft model enabling legislation be prepared for discussion in each treaty body prior to the next meeting of chairpersons. Such model legislation could then be transmitted to the States parties with an offer of technical cooperation.

43. It is recalled that the reporting process is intended to facilitate the exchange of information amongst States parties in order to enhance awareness of shared problems and ways and means to address them. Accordingly, the chairpersons may wish to consider the usefulness of providing guidance on implementation through a compilation of "best practices", which could be made available on the Human Rights Website of the High Commissioner/Centre for Human Rights. This might be undertaken as a joint project of the High Commissioner/Centre for Human Rights, the United Nations Development Programme and the Division for the Advancement of Women.

44. Similarly, the chairpersons may wish to consider the future establishment by each treaty body of a special rapporteur on follow-up to the recommendations contained in concluding observations. An integrated follow-up paper could be prepared on the actions taken by States parties to implement the recommendations of the treaty bodies. Such a follow-up paper would be shared with the treaty bodies' partners, especially States and intergovernmental and non-governmental organizations. It could also be used in the compilation of the above-mentioned list of "best practices".

Notes

1/ See Official Records of the Economic and Social Council, 1997, Supplement No. 2 (E/1997/22-E/C.12/1996/6), annex VII.

2/ Official Records of the General Assembly, Fiftieth session, Supplement No. 40 (A/50/40), annex V.

3/ See ibid., Fifty-first session, Supplement No. 40 (A/51/40).